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August 6, 1998

AUG - 6 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
Washington, D.C. 20554

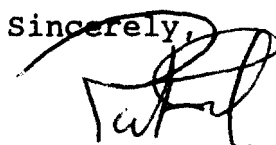
Re: In the Matter of
1998 Biennial Regulatory Review --
Streamlining of Radio Technical Rules in
Parts 73 and 74 of the Commission's Rules
(MM Docket No. 98-93)

Dear Ms. Salas:

Transmitted herewith on behalf of Piedmont Broadcasting Corporation, is an original and six copies of its Comments in the above-referenced rule making proceeding.

Should any questions arise concerning this matter, please contact this office directly.

Sincerely,



John F. Garziglia
Patricia M. Chuh

Enclosure

cc: Peter H. Doyle (Via Hand Delivery - MMB, Room 302-E)

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

1998 Biennial Regulatory Review --) MM Docket No. 98-93
Streamlining of Radio Technical Rules in)
Parts 73 and 74 of the Commission's Rules)
)
)

To: The Commission

COMMENTS REGARDING FOOTNOTE 22

Piedmont Broadcasting Corporation, by its attorneys, hereby submits its comments with respect to footnote 22 of the Notice of Proposed Rule Making and Order released by the Commission on June 15, 1998 in MM Docket No. 98-93 (the "Streamlining NPRM"), seeking to streamline the Commission's radio technical rules.^{1/} See Notice of Proposed Rule Making and Order, FCC 98-117, MM Docket No. 98-93, released June 15, 1998. Because footnote 22 of the Streamlining NPRM contains an erroneous clarification of the Commission's policy which fails to comport with established Commission precedent, the Commission should correct its clarification to specifically exclude applicability of the footnote to one-step downgrade applications filed by existing FM

^{1/} The Streamlining NPRM originally set the comment filing deadline as August 21, 1998. See Streamlining NPRM; 63 Fed. Reg. 33892 (June 22, 1998). However, by order adopted and released on July 23, 1998, the Commission granted a Motion for Extension of Time of Comment and Reply Comment Deadlines filed by the National Association of Broadcasters and extended the time for comments by sixty days, to October 20, 1998. See Order, DA 98-1468, MM Docket No. 98-93, released July 23, 1998. Accordingly, these comments are timely filed.

stations when the Commission adopts an order in this proceeding. In support whereof, the following is respectfully submitted:

1. The Commission stated in footnote 22 of the Streamlining NPRM that when a one-step FM construction permit application to change channel or station class is granted, ". . . the formerly authorized facilities are no longer protected from subsequently filed applications." See Streamlining NPRM, at footnote 22. This purported clarification is too broad because it erroneously encompasses all one-step applications, including downgrade applications filed by existing FM stations. This directly conflicts with established Commission policy stated in Revision of Section 73.3573(a)(1) of the Commission's Rules Concerning the Lower Classification of an FM Allotment, 4 FCC Rcd 2413 (1989), concerning one-step downgrade applications ("Downgrade Order").

2. In its Downgrade Order, the Commission clearly and unequivocally declared that:

. . . after [a] grant of a construction permit to modify the facilities of an existing FM authorization to a lower class, **[the Commission] will continue to protect the authorized facilities until the modified facilities are licensed.** The construction permit for the modified facilities will also be protected as currently done in cases where a site change is granted.

4 FCC Rcd at para. 14 (emphasis added). Therefore, the Commission's purported clarification in footnote 22 of the Streamlining NPRM is incorrect, as stated.

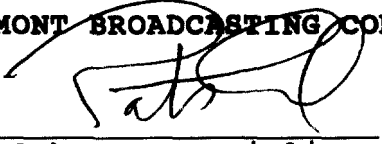
WHEREFORE, for the foregoing reasons, the Commission should correct its purported clarification in footnote 22 of the

Streamlining NPRM, to clearly specify that it is not applicable to one-step downgrade applications filed by existing FM stations.

Respectfully submitted,

PIEDMONT BROADCASTING CORPORATION

By:


John F. Garziglia
Patricia M. Chuh
Its Attorneys

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August 6, 1998

CERTIFICATE OF SERVICE

I, Lisa A. Skoritoski, a secretary in the law firm of Pepper & Corazzini, L.L.P., do hereby certify that on this 6th day of August, 1998, copies of the foregoing Comments were mailed, postage prepaid, to the following:

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Lisa A. Skoritoski